

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Policies and Rules Implementing) CC Docket No. 93-22
the Telephone Disclosure and Dispute)
Resolution Act)

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GTE's COMMENTS

GTE Service Corporation and its affiliated
domestic telephone operating companies

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SUMMARY

1. GTE supports the Commission's constructive action to protect the public and suggests the FCC should in addition: (i) insert language in proposed Section 64.1510(a) that will proscribe deceptive billing practices by carriers subject to that section and establish integrity of billing not only as a contractual obligation among private parties but as a regulatory obligation; (ii) recommend to Congress further legislation that would place similar obligations on Information Providers ("IPs"), and that either directs the Federal Trade Commission to pursue an active program of enforcement or grants the FCC the authority necessary to bring IPs within the FCC's active program of enforcement.

2. A special concern of GTE has been that the Commission develop, to protect the public from abuses, a program of action that will be effective and that at the same time will not impose on Local Exchange Carriers ("LECs") responsibility for parties and transactions as to which the LECs have no knowledge or control. The Commission's rules as modified and proposed — further modified as suggested by GTE — come within these criteria.

3. Although the obligations imposed on those carriers subject to proposed Section 64.1510(b)(1) are completely infeasible for performance by GTE in economic and practical terms, GTE offers no objection because GTE would not be subject to these obligations for two reasons: (i) GTE does not offer billing and collection services to entities providing interstate information services inasmuch as GTE enters into billing and collection contracts only with firms that identify themselves as Interexchange Carriers ("IXCs") and only with regard to such firms' IXC business; and (ii) GTE's

longstanding policy excludes from the scope of its billing and collection contracts information services provided to subscribers on a collect basis or under a presubscription or comparable arrangement (as all such terms are employed by the FCC). Further, in light of the rules adopted and proposed, GTE is clarifying and emphasizing its policy and contracts to make this exclusion more explicit.

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GTE's COMMENTS

GTE Service Corporation and its affiliated telephone operating companies ("GTE"), with respect to the Order on Reconsideration and Further Notice of Proposed Rulemaking, FCC 94-200 (released August 31, 1994) (the "*Recon Order*" and "*Further Notice*"), offer the following comments.

I. GTE supports the Commission's program of action and suggests additional steps that would further strengthen that program.

GTE supports as an important step in the right direction the Commission's firm and constructive action dealing with the problems that have arisen in recent months, particularly those involving the employment of 800 dialing.¹ Further, GTE offers suggestions *infra* as to additional actions the Commission should take to deal with these problems.

Apart from furnishing interstate access, GTE's only involvement in interstate Pay-Per-Call ("PPC") is in the furnishing to IXC's of billing and collection services for Pay-Per-Call charges. With respect to interstate PPC, GTE enters into billing and collection contracts only with firms that identify themselves as IXC's and only with

¹ In this pleading, GTE employs "PPC" to **include** *Collect Services* and *Presubscription Services*, as defined *infra*. GTE employs "Pay-Per-Call" to **exclude** *Collect Services* and *Presubscription Services*.

regard to such firms' IXC business. In normal course, as a billing and collection agent, GTE has no contact whatever with the Information Providers ("IPs") that furnish PPC. These IPs are either the customers of GTE's IXC customers or are still further removed (for example, customers of the customers of GTE's IXC customers). In light of this reality, a special concern of GTE is that the Commission develop a program of action that will be effective in protecting the public from abuses and that at the same time will not impose on GTE responsibility for parties and transactions as to which the GTE has no knowledge or control.

Two years ago, when the question of 800 usage for PPC purposes first arose, GTE decided it would not accept for billing and collection PPC calls placed via 800 dialing, and so advised all its customers. These are the essential reasons for GTE's decision:

(i) In ordering 900 blocking, GTE's subscriber is in substance notifying GTE of unwillingness to be charged for PPC calls, and GTE honors its subscriber's expressed wishes. GTE opposes practices that in effect circumvent 900 blocking.

(ii) GTE believes that broad recognition by the public that 800 calls are free to the caller, while 900 calls are not free to the caller, represents an immensely valuable industry resource. Introducing confusion on this simple point would not only be a disservice to the public, it would work against the interests of GTE and the industry.

It should be noted that GTE's decision not to accept charges for PPC calls via 800 dialing is for all practical purposes the same as a decision to limit the charges GTE will accept to Pay-Per-Call charges placed via 900 numbers; and, again for all practical purposes, the same as a decision to limit billing and collection to Pay-Per-Call calling,

i.e., not to accept charges for what the *Recon Order* (at paragraph 1) terms "information services excluded from the pay-per-call definition" – which includes (at paragraph 12) "information services provided to subscribers on a collect basis [*Collect Services*]" or under a presubscription or comparable arrangement [*Presubscription Services*]." Thus, the impact of the proposed Section 64.1510(b)(1) is to reaffirm the decision GTE had already made in substance not to accept for billing and collection charges for interstate *Collect Services* or *Presubscription Services*.

In 1994, a number of complaints were filed by GTE subscribers who had been billed for PPC even though they had ordered 900 dialing blocked. The typical problem that generated these complaints was that PPC charges for billing and collection in "masquerade" form, *i.e.*, in the form of billings for toll charges, had been submitted to GTE for collection. Since these masquerade charges appeared to be toll charges, they were billed as toll charges to GTE subscribers. When the resulting subscriber complaints alerted GTE to this practice, GTE once again communicated its policy to all of its IXC customers, and in particular discussed the matter with those IXC customers mentioned in complaints. These IXC customers have firmly indicated the intent to avoid transmitting to GTE PPC charges masquerading as toll charges. GTE intends to be vigilant in requiring its IXC customers to avoid transmitting masquerade charges.

In view of the foregoing and to deal with the masquerade problem, GTE makes the following suggestions:

First: The Commission should provide explicitly in Section 64.1510(a) for an obligation of carriers subject thereto to avoid such deceptive billing practices as passing on for billing and collection PPC charges misidentified as toll charges. This would establish integrity of billing not only as a contractual obligation among private parties

but as a regulatory obligation. An appropriate way to achieve this outcome is to modify Section 64.1510(a) by adding a new subsection (2) (and changing the number of 64.1510(a)(2) to 64.1510(a)(3)) reading as follows:

(2) Ensure the integrity of charges submitted for billing and collection by another carrier by correctly identifying the nature of such charges with particular reference to these categories: (i) Pay-Per-Call charges; (ii) charges for directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate; (iii) information services provided to subscribers on a collect basis; (iv) any service for which users are assessed charges only after entering into a presubscription or comparable agreement; (v) toll charges.

Adoption of this rule would permit LECs to monitor the nature of charges and to enforce a decision to exclude from billing and collection one or more of the foregoing categories. It would also make ineffective practices designed to circumvent 900 service blocking ordered by a subscriber.

Second: To deal with significant continuing abuses on the part of IPs, GTE suggests the Commission should recommend to Congress further legislation that would place on IPs the same kind of clear and firm obligation as that just discussed in the context of Section 64.1510, *i.e.*, the obligation to avoid engaging in such deceptive billing practices as passing on for eventual billing and collection PPC charges misidentified as toll charges. Further legislation to this effect is required because some IPs have engaged in deceptive billing practices of this kind and it is difficult for both IXC's and LECs to detect and control the practice. GTE also suggests the FCC should recommend to Congress further legislation that either directs the Federal Trade

Commission to pursue an active program of enforcement or grants the FCC the authority necessary to bring IPs within the FCC's active program of enforcement.

GTE must express some concern with the implications of paragraph 20 of the *Recon Order* insofar as these implications might concern GTE. GTE has no real-time means to detect deceptive billing practices. Alerted by complaints, GTE has taken the action described *supra* and intends to be vigilant in dealing with any reoccurrence. Further, GTE's suggested modification of Section 64.1510(a), *supra*, would enable GTE to take effective action enforcing its policy without the Draconian remedy of contract termination. In any case, GTE will continue to work through its IXC customers to assure compliance with the rules adopted by the *Recon Order* and proposed by the *Further Notice*.

In summary: GTE supports the Commission's constructive action dealing with the problems that have arisen in recent months, and offers *supra* suggested additional actions the FCC should take to protect the public from abuses.

II. The rule changes made by *Recon Order* and proposed by the *Further Notice* represent an effective approach; GTE is in compliance with the rules as modified and will be in compliance with the proposals of the *Further Notice*.

GTE supports the effective program of action reflected in the rule changes implemented by the *Recon Order* and proposed by the *Further Notice*. As suggested *supra*, this program is an important step in the right direction.

GTE is pleased to observe that neither the rule changes implemented by the *Recon Order* nor those proposed by the *Further Notice* would subject GTE to obligations beyond its ability to carry them out. GTE is in compliance with the rules as modified, and would comply, as discussed *infra*, with the proposed rules.

With regard to Section 64.1504 as proposed by the *Further Notice* (at paragraph 31), to the extent GTE is a common carrier, the company is subject thereto and in compliance therewith inasmuch as GTE is moving to clarify its contracts with its IXC customers to prohibit the use of 800 dialing except as permitted by the FCC's rules. Further, GTE will continue refusing to accept for billing and collection interstate PPC charges placed via 800 dialing. In the event that an IXC customer of GTE engages in deceptive billing practices by submitting for billing and collection "masquerade" charges, *i.e.*, PPC charges placed via 800 dialing but misidentified as toll charges, GTE will look to its contractual rights with regard to contract termination. Further, the rule change GTE suggests *supra* for Section 64.1510(a) would greatly assist GTE in assuring enforcement of its policy and promoting compliance with the Commission's rules.

With regard to Section 64.1506 as modified by the *Recon Order* (at paragraph 6), GTE is in compliance in that GTE does not offer the interstate services described in Section 64.1501(a)(1)-(2). In any case, GTE accepts for billing and collection only Pay-Per-Call charges (*i.e.*, excluding charges for *Collect Services* or *Presubscription Services*) placed through telephone numbers beginning with a 900 service access code.

With regard to Section 64.1510(b), which is modified by the *Recon Order* (at paragraphs 16-22) and greatly expanded by the *Further Notice* (at paragraphs 29-31), this applies to a "common carrier offering billing and collection services to an entity providing interstate information services pursuant to a presubscription or comparable arrangement." GTE emphasizes that in economic and practical terms it would be completely infeasible for GTE to perform the obligations spelled out in Section

64.1510(b)(1). GTE does not oppose adoption of Section 64.1510(b) inasmuch as GTE is not subject to these obligations because: (i) GTE does not offer billing and collection services to entities providing interstate information services; and (ii) in line with its long-standing policy of not accepting for billing and collection PPC charges via 800 dialing, GTE does not accept for billing and collection either *Collect Services* or *Presubscription Services*. Thus, GTE accepts only Pay-Per-Call charges as narrowly defined² and only for calls via 900 dialing; and does not accept charges for any information service that falls outside the statutory definition. This represents no substantive change from GTE's long-standing policy. As stated *supra*, GTE is clarifying and emphasizing its policy and contracts to make the foregoing more explicit. The change suggested *supra* in Section 64.1510(a) would permit GTE to ensure enforcement of its policy and would promote compliance with the Commission's rules.

With regard to Section 64.1511 as modified by the *Recon Order* (at paragraph 22), this applies to a "carrier assigning a telephone number to a provider of interstate [Pay-Per-Call] or providing transmission for interstate information services provided pursuant to a presubscription or comparable arrangement or on a collect basis, **and** providing billing and collection for such services."³ GTE is not subject to Section 64.1511 because: (i) GTE does not assign telephone numbers to IPs; and (ii) While GTE provides transmission for interstate *Collect Services* and *Presubscription Services*, GTE does not provide billing and collection for such services. In any case, GTE's established procedures comply with the substance of Section 64.1511.

² See n. 1 *supra*.


³ Emphasis added.

In summary: The Commission's actions represent an effective approach to resolving urgent matters. GTE is in compliance with the Commission's rules as modified by the *Recon Order* and would comply as discussed *supra* with the rules that the *Further Notice* proposes to change. The change in Section 1510(a) suggested by GTE *supra* would permit GTE to ensure enforcement of its policy and would promote compliance with the Commission's rules.

Respectfully submitted,

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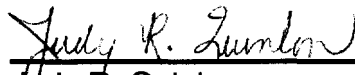
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October 11, 1994

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Certificate of Service

I, Judy R. Quinlan, hereby certify that copies of the foregoing "GTE's Comments" have been mailed by first class United States mail, postage prepaid, on the 11th day of October, 1994 to all parties of record.



Judy R. Quinlan